REMARKS

Claims 2 and 48-62 were pending in this application before entry of the present amendment.

The specification is being amended to incorporate deposit information for MPV-isolate 00-1 (NL/1/00), as evidenced by the enclosed Receipt of Deposit Under the Budapest Treaty (Exhibit A). This information is being provided in a new section, entitled "Deposit of Biological Material," following p. 27, line 3 and before p. 28, line 1.

Claims 48-58 have been cancelled. Claims 59 to 62 have been amended to be in independent form. Claims 59-62 have been further amended to include the claim limitation "human" limiting the scope of the claims to human metapneumoviruses. Support for the claim amendments of claims 59-62 can be found at p. 21, *ll.* 11-15, of the specification as originally filed. Additional support for the amendment to claim 62 can be found at p. 2, *l.* 1.

New claims 63 to 68 have been added. Support for the new claims can be found in the specification as originally filed as set forth in the table below:

Claim	**Support in 10/722,045**
63	p. 25, *ll.* 17-23, p. 33, *l.* 19, to p. 34, *l.* 12
64, 65	p. 46, *ll.* 19-33, and p. 51, *ll.* 10-26
66, 68	p. 25, *ll.* 17-20, p. 33, *l.* 19, to p. 34, *l.* 12
67	p. 25, *ll.* 17-23, p. 49, *l.* 30, p. 50, *l.* 4

No new matter has been introduced. After entry of the present amendment, claims 2 and 59 to 68 will be pending in the present application.

Sequence Requirements

This application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 CFR 1.821(a)(1) and (a)(2). The Examiner contends that the application fails to comply with the requirements of 37 CFR 1.821-1.825 because the specification does not contain sequence identifiers (SEQ ID#). Applicants point the Examiner to the Preliminary Amendments submitted under 37 CFR 1.115 on November 12, 2004 and January 25, 2005. Specifically, the Examiner may

refer to p. 6, ¶ 2, of the Preliminary Amendment filed on November 12, 2004, which amends the figure legend for Figure 20.

The Claim Rejections under 35 U.S.C. § 112 Should be Withdrawn

Claims 48-58 and 62 have been rejected under 35 U.S.C. § 112, first paragraph, as lacking enablement. In particular, the Examiner contends that the specification neither teaches that MPV is the only other virus with a cytopathic effect identical to hPIV and hRSV, nor does it support nucleic acids or antibodies that would detect PIV, RSV and/or influenza virus. In addition, it is the Examiner's contention that the genus mammalian metapneumovirus is not supported by the specification.

Without agreeing to the Examiner's contentions and solely to expedite prosecution, Applicants have cancelled claims 48-58. Applicants further have amended claim 62 to be in independent form. Amended claim 62 is directed to a method of detection using a nucleic acid that hybridizes under stringent conditions to human metapneumovirus isolate I-2614. Thus, the method of amended claim 62 no longer relies on the cytopathic effect caused by human metapneumovirus.

Therefore, the rejection of claims 48-58 under 35 U.S.C. § 112, first paragraph, is moot in view of the cancellation of these claims. Further, Applicants respectfully request that the rejection of claim 62 under 35 U.S.C. § 112, first paragraph, be withdrawn in view of the present amendment.

The Claim Rejections under 35 U.S.C. § 112 Should be Withdrawn

Claim 62 has been rejected under 35 U.S.C. § 112, first paragraph. In particular, the Examiner contends that it is not clear from the disclosure that the deposit of I-2614 meets all the criteria of M.P.E.P. 608.01(p)(C), items 1-3.

As required under 37 C.F.R. § 1.809, Applicants have amended the specification such that it contains the deposit accession number, the deposit date, a description of the deposited virus, and the name and address of the depository in a new section entitled "Deposit of Biological Material" following p. 27, line 3 and before p. 28, line 1.

Applicants note that a deposit was made for the MPV-isolate 00-1 (NL/1/00) under the Budapest Treaty. Applicants submit herewith a receipt in for the original deposit of the

aforementioned isolated issued by an International Depository Authority under the Budapest Treaty (Exhibit A).

For the reasons set forth above, Applicants request that the rejection of claim 62 under 35 U.S.C. § 112, first paragraph, be withdrawn.

The Claim Rejections under 35 U.S.C. § 103 Should be Withdrawn

Claims 48-62 have been rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Van den Hoogen *et al.* (Nature Medicine, 2001, 7 (6): 719-724; "Van den Hoogen"). The rejection is mute with regards to claims 48-58 in view of the cancellation of these claims. Further, as set forth in more detail below, Van den Hoogen is not prior art against the present application. The remaining claims 49-62 are therefore not obvious over the cited art and the rejection should be withdrawn.

It is noted that the Examiner contends that specification does not clearly indicate that MPV isolate I-2614 is the same clone as MPV isolate 00-1. Please note that the specification as filed identifies isolate 00-1 as being identical to isolate I-2614 (see, p. 20, *ll.* 13 and 14, of the instant specification).

Applicants respectfully point out that Van den Hoogen is not available as prior art to the claimed invention as it was published *after* the effective priority date of the instant application.

Specifically, the instant application claims the benefit of U.S. Application No. 10/466,811 ("the '811 Application") filed July 21, 2003 which is a national stage application of International Application PCT/NL02/00040, filed January 18, 2002 (the "PCT Application"). The PCT Application claims priority to foreign applications EP 01200213.5, filed January 19, 2001, and EP 01203985.5, filed October 18, 2001 (collectively: the "Foreign Priority Documents"). Support for the human metapneumovirus clone 1-00 can be found in the specification of the '811 Application, *e.g.*, at p. 2, *ll.* 1-14 and p. 20, *ll.* 13, 14, and in the foreign priority applications, *e.g.*, EP 01200213.5, filed January 19, 2001 at p. 5, *ll.* 2-23 and p. 11, *ll.* 3-4; EP 01203985.5, filed October 18, 2001 at p. 4, *l.* 33 to p. 5, *l.* 12; p. 17, *ll.* 6-8; p. 23, *ll.* 3-4. Thus, the presently pending claims are entitled to the benefit of priority to European Patent Application 01200213.5, filed January 19, 2001, which predates Van den Hoogen. Therefore, Van den Hoogen published in June 2001 is not prior art against the present application.

In view of the above, Applicants contend that Van den Hoogen is not available as prior art for any purpose under 35 U.S.C. § 103 and request that the rejection under 35 U.S.C. § 103(a) be withdrawn.

CONCLUSION

Applicants respectfully request that the above remarks and amendments be entered and made of record in the present application file.

Respectfully submitted,

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